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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,764	11/21/2003	Jason D. Foushee	10000/209	3285
757 75	10/17/2006		EXAMINER	
BRINKS HOFER GILSON & LIONE			TRUONG, KEVIN THAO	
P.O. BOX 1039	95			
CHICAGO, IL 60610		•	ART UNIT	PAPER NUMBER
			3734	•
·			DATE MAILED: 10/17/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary		Application No.	Applicant(s)		
		10/719,764	FOUSHEE ET AL.		
		Examiner	Art Unit		
		Kevin T. Truong	3734		
Period fo	The MAILING DATE of this communication app or Reply	ears on the cover sheet with the c	orrespondence address		
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).					
Status					
1)⊠	Responsive to communication(s) filed on <i>Election 09/14/2006</i> .				
,	This action is FINAL . 2b)⊠ This action is non-final.				
3)	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is				
	closed in accordance with the practice under E	x parte Quayle, 1935 C.D. 11, 45	3 O.G. 213.		
Dispositi	ion of Claims				
5)□ 6)⊠ 7)□	Claim(s) <u>1-20</u> is/are pending in the application. 4a) Of the above claim(s) <u>2,4,8 and 11-18</u> is/are Claim(s) is/are allowed. Claim(s) <u>1,3,5-7,9,10,19 and 20</u> is/are rejected Claim(s) is/are objected to. Claim(s) are subject to restriction and/or	e withdrawn from consideration.			
Application Papers					
10)	The specification is objected to by the Examine The drawing(s) filed on is/are: a) access Applicant may not request that any objection to the Replacement drawing sheet(s) including the correct The oath or declaration is objected to by the Ex	epted or b) objected to by the Eddrawing(s) be held in abeyance. See ion is required if the drawing(s) is obj	e 37 CFR 1.85(a). ected to. See 37 CFR 1.121(d).		
Priority ı	under 35 U.S.C. § 119				
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.					
Attachment(s)					
1) Notice 2) Notice 3) Information	ce of References Cited (PTO-892) ce of Draftsperson's Patent Drawing Review (PTO-948) mation Disclosure Statement(s) (PTO/SB/08) er No(s)/Mail Date 3/4/04;6/4/04	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal P 6) Other:	ate		

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Species of figure 1, claims 1-3, 5-7, 9-10, 17, and 19-20 in the reply filed on 09/14/2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Furthermore, only claims 1, 2, 5-7, 9-10, and 19-20 read on species of figure 1.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

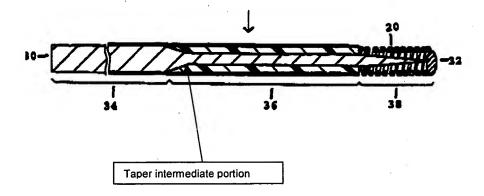
A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 3. Claims 1-2, 5-7, 9-10, and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Rappe (U.S. 5,387,219).

Rappe discloses the claimed invention in figures 1-4, an elongated member (13) having a first portion (34) and a second portion (36) with a diameter smaller than the first portion (34); wherein the distal end of the elongated member (13) defining a loop (24); a radiopaque marker cannula (23) (col. 3, lines 1-3) closing the loop (24); wherein the width of the loop (24) is greater than the diameter of the first portion (34); and a intermediate portion (see drawing below) defines a taper from the first portion (34) to the second portion (36)

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Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jackson et al. (U.S. 5,613,973) and Swanson (U.S. 6,464,699).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin T. Truong whose telephone number is 571-272-4705. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 6:00 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on 571-272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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